

PT 97-47

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

ELECTRICAL JOINT)	
APPRENTICESHIP &)	Docket No: 93-16-1360
TRAINING TRUST,)	
APPLICANT)	
)	
v.)	Real Estate Exemptions
)	for 1993 Tax Year
)	
DEPARTMENT OF REVENUE)	P.I.N: 24-20-300-023
STATE OF ILLINOIS)	
)	
)	Alan I. Marcus,
)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Thomas W. Lynch on behalf of the Electrical Joint Apprenticeship & Training Trust.

SYNOPSIS: This proceeding raises the issue of whether the above-captioned real estate qualifies for exemption from 1993 real estate taxes under 35 **ILCS** 205/19.1.¹ In relevant part, that provision exempts the following from real estate taxation:

1. In People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption will depend on the statutory provisions in force at the time for which the exemption is claimed. This applicant seeks exemption from 1993 real estate taxes. Therefore, the applicable statutory provisions are those contained in the Revenue Act of 1939 (35 **ILCS** 205/1 *et seq*).

Based on the above, I expressly reject the suggestion, found on pages 9 - 10 of applicant's brief, that the governing statute is found in 35 **ILCS** 200/15-35. This provision, which is part of the Property Tax Code, did not become effective until January 1, 1994. See, 35 **ILCS** 200/1-1.

... all property of schools, including the real estate of schools, ... including the real estate on which the schools are located and any other real property used by such schools exclusively for school purposes, not leased by such schools or otherwise used with a view to profit ...[.]

The controversy arises as follows:

On January 6, 1994, the Electrical Joint Apprenticeship & Training Trust (hereinafter the "Trust" or the "applicant") filed an exemption complaint with the Cook County Board of (Tax) Appeals (hereinafter the "Board"). Said complaint alleged that Cook County Parcel Index Number 24-20-300-023 was exempt from 1993 real estate taxes under the then-existing exemption provisions pertaining to "schools" and "institutions of public charity."² (Dept. Group Ex. No. 1).

The Board subsequently reviewed applicant's complaint and recommended to the Department that the requested exemption be denied. (Dept. Ex. No. 2). On October 27, 1995, the Department adopted the Board's recommendation by issuing a certificate finding that the property was neither in exempt ownership nor in exempt use during 1993. (Dept. Ex. No. 2).

Applicant later filed a timely request for hearing as to the Department's denial. (Dept. Ex. No. 3). After holding a pre-trial conference, the Administrative Law Judge conducted an evidentiary hearing on September 5, 1996. Following submission of all evidence and a careful review of the record, it is recommended that the subject parcel not be exempt from 1993 real estate taxes.

FINDINGS OF FACT:

1. The Department's jurisdiction in this matter and its position therein are established by admission into evidence of Dept. Ex. Nos. 1 and 2.

². The provisions pertaining to "institutions of public charity" were found at 35 ILCS 205/19.7 during 1993. However, applicant's presentation at hearing was limited to the "school" issue. It also made no mention of the charitable exemption in its brief and confined same to analysis of the "school" exemption. For these reasons, I shall limit the scope of this Recommendation to the "school" issue.

2. The subject parcel is identified by Cook County Parcel Index Number 24-20-300-023. It is located at 6201 W. 115th Street, Alsip, IL and improved with a building that contains two floors and measures 109,358 square feet. Dept. Group Ex. No. 1; Applicant Ex. No. 7.

3. Both floors contain classrooms, restrooms and other facilities which applicant uses to further the purposes of its training program for apprentice construction electricians. Applicant Ex. No. 7; Tr. pp. 16 - 17.³

4. The Trust acquired its ownership interest in the subject property via a quitclaim deed and a Land Trust Agreement that vests applicant with power of direction. Both documents are dated July 15, 1992. Applicant Ex. Nos. 5 and 6.

5. Applicant was established as the result of a trust agreement between the Electrical Contractors Association of Chicago (hereinafter the "Association") and the International Brotherhood of Electrical Workers (hereinafter the "I.B.E.W." or the "Union") that became effective July 4, 1960. Said agreement establishes an entity that is legally distinct from the signatories which created it pursuant to a collective bargaining agreement originally dated August 21, 1921.⁴ Applicant Ex. No. 2; Tr. pp. 29 -30.

6. The original trust agreement provides, *inter alia*, that:

A. The Trust shall be administered by a six-member Board of Trustees;

B. The six members shall be evenly divided between 3 representatives from the Association and 3 representatives from the Union;

C. The Trustees shall have the authority to administer, operate, maintain and improve the apprenticeship training program, including the one then located at the Michael J.

³. For a detailed description of space allocation, see Tr. pp. 54 - 65.

⁴. This agreement has been subject to periodic amendments. The most relevant and recent (at least for purposes of the present case) are detailed in Findings of Fact 9A through 9W, *infra* at pp. 5 - 7.

Kennedy Electronics School for Apprentices in Chicago, IL;
and,

D. The Trust shall be financed solely by contributions from
members of the Association.

Applicant Ex. No. 2.

7. The Trust document was amended on May 29, 1995 to
provide, *inter alia*, that:

A. The Trust shall be governed by an eight member Board of
Trustees;

B. Said Board shall consist of four management and four
labor trustees;

C. The trustees shall not receive any compensation for
performance of their duties, save for reasonable
reimbursement for any expenses incurred while discharging
same;

D. The trust fund continue to be financed by employer
contributions which the trustees shall apply toward the
sole purpose of defraying the cost of apprenticeships or
other training programs;⁵

E. Title to all of the monies paid into the trust fund and
all other property thereof shall be vested in the Board of
Trustees and neither the Association nor the Union shall
have any title or interest in any monies or property of the
trust fund; and,

F. Employer contributions shall not constitute or be deemed
wages due to employees and such contributions shall not in
any manner be liable for nor subject to the debts,
contracts or liabilities of the Union, the Association or
the employees thereof.

Applicant Ex. No. 3; Tr. pp. 26 - 28.

8. Applicant obtained an exemption from federal income tax in October of
1961. This exemption was obtained pursuant to Section 501(c)(5) of the Internal
Revenue Code and remained in effect throughout the 1993 assessment year.
Applicant Ex. No. 1.

⁵. For additional details concerning applicant's finances, see the audit
admitted as Applicant Ex. No. 10 and the testimony of applicant's comptroller,
Andrea Reaper, at Tr. pp. 84 - 93.

9. The Association and the Union entered into a collective bargaining agreement on August 26, 1991. Said agreement was subject to periodic amendments. The ones in force throughout the 1993 assessment year provided, *inter alia*, as follows:

A. That the Association recognized the Union as having jurisdiction over the installation, operation, maintenance, service and repair of all electrical wiring and electrical equipment used in the construction, alteration, maintenance, service and repair of buildings, structures, bridges, street and highway work, tunnels, subways, shafts, dams, river and harbor work, airport, mines, all electrical raceways (of whatever form) for electrical and fiber optic wires and cables, including electrical and fiber optic cable work associated with heating, ventilation, fire and smoke alarm, and other life safety and security systems, and such other work as by custom has been performed by members of the Union;

B. The Union shall be the sole and exclusive source of referral of applicants for employment in the above jurisdictions;

C. The Union is a part of the I.B.E.W.;

D. The Association, as the employer, shall have the right to reject any applicant for employment;

E. The Union and the Association shall be bound by the Electrical Joint Apprenticeship and Training Trust Fund Agreement;

F. The agreement covers the geographic area within Cook County, Illinois plus the commuting distance adjacent thereto from which the normal labor supply is secured in Cook County;

G. Any examinations required for employment or experience rating shall include "only written and or practical examinations given by a duly constituted Inside Construction Local Union of the I.B.E.W["] [sic];

H. Apprentices shall be defined as persons having been registered as such and bound by agreement to an employer as per the apprenticeship standards, which standards have been adopted by the parties to this agreement;

I. The aforementioned standards shall be established by an Electrical Joint Apprenticeship and Training Committee (hereinafter the "Committee") which consists of four members representing the Union and four members representing the Association;

J. The Committee shall supervise all matters involving apprenticeship and training in conformity with the provisions of this Agreement and the registered local Apprenticeship standards;

K. The Committee shall also be responsible for training journeyman and others;

L. All apprentices must enter the apprentice training program through the Committee and shall not be eligible for employment until they have been indentured to the Committee;

M. An individual employer shall employ only indentured apprentices secured from the Committee;

N. The Committee shall allow each qualified employer from the Association a ratio of one indentured apprentice to three journeyman wiremen when such apprentices are available;

O. All apprentices must be under the direct personal supervision of a journeyman wiremen at all times;

P. The rate of pay for journeyman wiremen shall be \$22.15 per hour from June 1, 1992 through June 7, 1993, with \$1.60 raise taking effect on June 7, 1993 and lasting until June 5, 1994;

Q. The rate of wages for apprentices shall be tied to those of journeymen except that apprentices shall not be paid during their first 2.5 months (11 weeks) of training;

R. The following pay scale shall apply to apprentices who have completed their first 2.5 months of training:

1rst half of			
1rst year	40%	of journeyman's full hourly rate	
2nd half of			
1rst year	45%	"	"
1st half of			
2nd year	50%	"	"
2nd half of			
2nd year	55%	"	"
1rst half of			
3rd year	60%	of journeyman's full hourly rate	
2nd half of			
3rd year	70%	"	"
1rst half of			

4th year 80% "

2nd half of
4th year 90% "

All times after
2nd half of
4th year 100% "

S. Apprentices in the first six months and last six months of their last year of apprenticeship must attend night seminars;⁶

T. All employers subject to the agreement must contribute a fixed percentage⁷ their Gross Productive Electrical Payroll of Employees to cover the Apprenticeship and Training Contribution and other fringe benefits. [capitalization as it appears in the original];

U. This percentage contribution is based on the journeyman scale for all classifications of labor except apprentices;

V. All contractors who sign the agreement must employ one or more journeymen; and,

W. Employers who are delinquent in the payment of wages and/or fringe benefits due to employees shall be subject to having this agreement terminated provided that the Union complies with certain notice requirements and the delinquent employers fail to produce satisfactory evidence of payment.

Applicant Ex. No. 13; Tr. pp. 27 - 28.

10. Pursuant to the trust and collective bargaining agreements, applicant operated a training program for apprentices in the electrical trade during 1993. The sole purpose of this program was (and remains) to train electricians. Applicant Ex. No. 11; Tr. p. 28, 46 - 47.

11. During 1993, applicant's program was registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, which is the governmental agency responsible for setting and maintaining educational standards in applicant's field. Tr. p. 46 - 47.

⁶. For further information about the content of these seminars, see, Findings of Fact 24 and 25, *infra* at p. 10.

⁷. The 1993 contribution rate for the Apprenticeship and Training Trust Fund was 41 cents for every hour worked by each Union employee. Tr. p. 28.

12. Approximately 20 instructors taught in applicant's program during 1993. Each instructor could not teach in the program unless he had at least ten years of experience as a journeyman electrician. 33 - 34.

13. The lead instructor in applicant's training program had a college degree and a vocational education certificate from the Chicago Public School System. Two other instructors had doctorates in education, while several others had master's and/or bachelor's degrees or vocational certificates. *Id.*

14. Those applying for admission to applicant's program must provide a birth certificate and possess a high school diploma or GED. They must also have attained a grade of "C" in algebra and submit to a general aptitude test. Tr. pp. 50 - 51.

15. The aptitude test is multiple choice and covers math, reading comprehension and spatial concepts. Tr. p. 51.

16. Applicant scores the tests and subsequently interviews those whose marks reveal sufficient aptitude for the subject matter. It then ranks the candidates according to their performance and "hire[s]" or admits students to the training program based on these considerations. Tr. pp. 51 - 52.

17. While applicant had approximately 1,100 apprentices involved in its training program during 1993, it was subject to a federal consent decree requiring that 40% of its admittees be members of racial and ethnic minorities. Applicant Ex. No. 8; Tr. pp. 52 - 53, 74 - 75, 83.

18. Those admitted to applicant's program pursue a four-year course of study which is geared toward meeting the needs of private industry. While there are no elective courses in the entire curriculum, those enrolled therein do not pay tuition. Tr. pp. 48, 72.

19. The first eleven weeks are devoted to full-time classroom instruction (to wit, 8:00 am to 4:00 pm, Mondays through Fridays) in the following four subjects: Math and Electrical Theory; Blueprints and Codes; Circuits and Conduit Bending. Applicant Ex. No. 11; Tr. pp. 48, 66, 69, 77.

20. Apprentices receive no pay from the Trust during this 11-week period. They do, nonetheless, begin 2,000 hours of on-the-job training after completing this initial course of study. Tr. p. 66, 70 - 71.

21. Apprentices are paid wages throughout all phases of their on-the-job training. These wages are tied to those of journeymen wiremen and paid according to the scale established in the collective bargaining agreement. Applicant Ex. Nos. 11, 13; Tr. p. 66.

22. Apprentices who successfully complete the first year return to applicant's training program for nine weeks of full-time instruction in the following four subjects: Blueprints and Codes; Motor Controls; Conduit Bending and Construction Shop. The apprentices are paid a stipend which is based on the journeyman wiremen scale while attending these classes. They also undergo another 2,00 hours of on-the-job training, (throughout which they receive wages in accordance with the collective bargaining agreement), after completing their class work. Applicant Ex. No. 11; Tr. pp. 66, 77.

23. Third year apprentices also participate in a nine-week curriculum and receive a stipend while attending class. Their full-time course of study consists of the following four classes: Heating and Air Conditioning Systems; Fiber Optics/LAN [sic]; Transformers and Programmable Controllers. Applicant Ex. No. 11; Tr. p. 66 - 67, 77.

24. After completing their coursework, third-year apprentices return to contractors for additional on-the-job training. They then begin their fourth year of course work, which, pursuant to the collective bargaining agreement, consists of six three-hour seminars in safety regulations and other topics subject to the jurisdiction of the Occupational Safety and Health Administration (hereinafter "OSHA"). Applicant Ex. No. 11; Tr. pp. 77 - 78.

25. These seminars are given at night so that fourth-year students can work during daytime hours. They are taught by OSHA-certified instructors who

issue appropriate certification cards and certificates from the program after students successfully complete this phase of their training. *Id.*

26. Students in the program are given written and practical examinations (as well as quizzes) throughout their course of study. They also receive grades for each course they complete. Tr. pp. 38 - 40.

27. Applicant issues diplomas to those who successfully complete its entire course of study, which encompasses all of the required classes, OSHA seminars and not less than 8,000 hours of on-the-job training. Applicant Ex. No. 11; Tr. p. 39 - 40, 75.

28. Those who receive diplomas are also promoted from apprentice to graduate journeyman, a status which entitles them to increased pay. Tr. pp. 75 - 76.

29. Approximately 300 graduate journeyman received diplomas from applicant's apprentice training program during 1993. Another 300 graduated from its night program, which offered a more advanced curriculum to journeymen or others with higher skill levels. Tr. pp. 40, 79 - 80, 83.

30. From February of 1998 until "April or May of 1993," applicant operated its training program under an agreement with Moraine Valley Community College (hereinafter "MVCC"). Said agreement provided, *inter alia*, that:

A. MVCC was to provide and maintain instructional facilities for applicant's apprentice training program;

B. The program was to be conducted at the Ridgeland Center, which MVCC leased from School District 218;

C. Applicant's program was to be a separate academic department of MVCC;

D. The program's curriculum must be submitted for and shall receive the approval of the Illinois Community College Board and the Illinois Board of Higher Education;

E. The program was subject to all normal administrative and curriculum policies prescribed by MVCC and other agencies;

F. Each year, applicant was required to make room for 40 MVCC students in the first year portion of its training program;

G. Students enrolled in the "technical courses" of applicant's training program were to pay a tuition charge of \$18.00 per credit hour;

H. First, second and third year students were to pay a fee of \$150.00 per student per year;

I. Fourth year students were to pay a fee of \$25.00 per student per year;

J. Applicant was to provide a program coordinator and other support staff who were paid by applicant;

K. The program coordinator and support staff were not employees of MVCC. They were, however, subject to its rules and regulations.

Applicant Ex. No 8; Tr. p. 43.

CONCLUSIONS OF LAW:

On examination of the record established this applicant has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting Cook County Parcel Index Number 24-20-300-023 from 1993 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the said parcel does not satisfy the requirements for exemption set forth in 35 ILCS 205/19.1 should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The power of the General Assembly granted by the Illinois Constitution operates as a limit on the power of the General Assembly to exempt property from taxation. The General Assembly may not broaden or enlarge the tax exemptions permitted by the Constitution or grant exemptions other than those authorized by the Constitution. Board of Certified Safety Professionals, Inc. v. Johnson, 112

Ill.2d 542 (1986). Furthermore, Article IX, Section 6 is not a self-executing provision. Rather, it merely grants authority to the General Assembly to confer tax exemptions within the limitations imposed by the Constitution. Locust Grove Cemetery Association of Philo, Illinois v. Rose, 16 Ill.2d 132 (1959). Moreover, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Revenue Act of 1939, 35 **ILCS** 205/1 et seq. The provisions of that statute that govern disposition of the instant proceeding are found in Section 205/19.1.⁸ In relevant part, that provision exempts the following:

... all property of schools, including the real estate of schools, ... including the real estate on which the schools are located and any other real property used by such schools exclusively for school purposes, not leased by such schools or otherwise used with a view to profit ...[.]

35 **ILCS** 205/19.1.

It is well established in Illinois that a statute exempting property or an entity from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. People Ex Rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987), (hereinafter "GRI"). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption and have required such party to prove by clear and convincing evidence that it falls within the appropriate statutory exemption. Metropolitan Sanitary District of Greater Chicago v. Rosewell, 133 Ill. App.3d 153 (1st Dist. 1985).

⁸. At this point, I must reiterate and re-emphasize my express rejection of applicant's contention that the governing statute is found 35 **ILCS** 200/15-35. That contention fails to recognize the principle articulated in People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922). As such, it is based on the erroneous assumption that the Property Tax Code became effective prior to January 1, 1994. See, footnote 1, *supra* at p. 1.

Here, the appropriate exemption pertains to "property of schools." Illinois courts have employed the following definition of the term "school" when analyzing exemption claims arising under Section 205/19.1 and its predecessors:

A school, within the meaning of the Constitutional provision, is a place where systematic instruction in useful branches is given by methods common to schools and institutions of learning, which would make the place a school in the common acceptance [sic] of the word.

People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 137 (1911), (hereinafter "McCullough"). See also, People v. Trustees of Schools, 364 Ill. 131 (1936); People ex rel Brenza v. Turnverein Lincoln, 8 Ill. 2d 188 (1956), (hereinafter "Brenza").

Our courts have supplemented this definition with the ensuing policy rationale:

It seems clear from the foregoing that this constitutional tax exemption for private educational institutions was intended to extend only to those private institutions which provide at least some substantial part of the educational training which otherwise would be furnished by publicly supported schools, academies, colleges and seminaries of learning and which, to some extent, thereby lessen the tax burden imposed upon our citizens as the result of the public educational system.

Brenza at 202-203.

Subsequent decisions have sought to effectuate the above criteria by requiring private institutions, such as applicant, to prove two propositions by clear and convincing evidence: First, that applicants offer a course of study which fits into the general scheme of education established by the State; and second, that applicants substantially lessen the tax burdens by providing educational training that would otherwise have to be furnished by the State. Illinois College of Optometry v. Lorenz, 21 Ill. 219 (1961), (hereinafter "ICO"). See also, Coyne Electrical School v. Paschen, 12 Ill.2d 387 (1957), (hereinafter "Coyne Electrical"); Board of Certified Safety Professionals of the Americas v.

Johnson, 112 Ill. 2d 542 (1986), (hereinafter "Johnson"); American College of Chest Physicians v. Department of Revenue, 202 Ill. App.3d. 59 (1st Dist. 1990); Winona School of Professional Photography v. Department of Revenue, 211 Ill. App.3d 565 (1st Dist. 1991), (hereinafter "Winona").

This applicant does not qualify for exemption under McCullough, Brenza or ICO and its progeny for several reasons. First, unlike ICO, wherein the court found that "it was the intention of the legislature to elevate the practice of optometry to that of a profession or skilled occupation, similiar to that of medicine, surgery or dentistry," (ICO at 222, citing Babcock v. Nudelman, 367 Ill. 626; Klien v. Department of Registration and Education, 412 Ill. 75), the instant record fails to establish establishing that the electrical trade is subject to the State's regulatory police powers.

The collective bargaining agreement (Applicant Ex. No. 13) expressly provides that the Committee is responsible for devising and enforcing training standards in the electrical trade. While these standards must be consistent with those established by the Bureau of Apprenticeship and Training, applicant's evidence falls short of establishing that this agency actually licenses or otherwise regulates the electrical trade itself. That task is, under terms of the collective bargaining and trust agreements, ostensibly reserved for the non-exempt signatories thereto.

The ICO court also found it significant that successful completion of appellant's course of study enabled one to sit for the State-mandated examination for the profession of optometry. Here, the collective bargaining agreement establishes that the non-exempt Union administers any examinations which may be required for employment in the electrical trade. Moreover, successful completion of these examinations, (nearly all of which can be linked to applicant's training program), only affords journeyman status in a self-licensing trade. Thus, although some of the examinations cover materials subject to OSHA's jurisdiction, the preceding analysis demonstrates that the electrical trade does not fall

within the class of "profession[s] or skilled occupation[s]" qualifying for exempt status under ICO. See also, Johnson, *supra* at 542. (citing Milward v. Paschen, 16 Ill.2d 302 (1959) for the proposition that "... since the State does not license or register safety professionals, the [appellant's] activities do not `substantially lessen[] what would otherwise would be a governmental function'" [sic]).

In addition, both ICO and the economically-based policy considerations which provide theoretical support for the two-prong test articulated therein, require applicant to prove that the training program substantially reduces the public's tax burden. Applicant presented little evidence on this point, except to submit that successful completion of its training program leads to increased employment opportunities for journeymen wireman.

Such increased opportunities undoubtedly provides some relief to the taxpayers of this State. Nonetheless, the instant record contains evidence establishing that admission to the training program is not open to the general public, but rather, restricted to those who are selected via a screening process. More importantly, the record establishes that those admitted to the program are paid wages throughout most of their training and that such wages are directly tied to those of journeymen electricians.

Given these considerations, I must conclude that the training program is inherently designed to teach certain skills to a select group of prospective union members. As such, its primary focus is providing training to these individuals rather than educating the general public. Consequently, any tax relief attributable to such training is incidental to that purpose and therefore legally insufficient to sustain applicant's burden of proof.

The above conclusion is consistent with other evidence in the record establishing that the primary beneficiaries of the training program are the signatories to the Trust and collective bargaining agreements rather than the general public. The trust itself derives the bulk of its funding from

contributions made by employers that belong to the Association. These monies enable the Committee, (which consists entirely of representatives from the Association and the Union), to operate a training program that, under terms of the collective bargaining agreement, allows the Union to function as "the sole and exclusive source" of employee referrals in the electrical construction trade.

The Association is also contractually prohibited from hiring apprentices that are not "indentured to the Committee[.]" This restriction, coupled with those that make the Committee responsible for overseeing and implementing all aspects of the training process, establish that training program operates for the exclusive benefit of the non-exempt commercial entities that created it.⁹ Accordingly, I conclude that the Trust which operates this program is but an alter ego of these entities, and therefore, does not qualify for exemption under the criteria articulated in ICO.

Applicant attempts to defeat the foregoing analysis by relying on its agreement with MVCC. This document provides that applicant's training program was to be a separate academic department within MVCC, and, requires that its curriculum be approved by the Illinois Community College Board as well as the Illinois Board of Higher Education.

These provisions could be interpreted as establishing that applicant offers "a course of study which fits into the general scheme of education established by the State," as required by ICO. However, other portions of the agreement require that MVCC, rather than applicant, is to provide and maintain instructional facilities for the training program. More importantly, the agreement also provides that the program was to be conducted at the Ridgeland Center rather than the subject premises. Thus, read as a whole, the agreement fails to

⁹. In making this conclusion, it must be remembered that the word "exclusively," when used in Section 205/19.1 and other tax exemption statutes, means "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

establish that the property presently at issue was "exclusively used for school purposes" during that portion of 1993 wherein the training program was conducted at MVCC's facilities.

This agreement also does not alter that portion of the preceding analysis which establishes that the training program operates primarily for the benefit of the non-exempt commercial entities which created it rather than for the public at large. Thus, even conceding, *arguendo*, that applicant offers "a course of study which fits into the general scheme of education established by the State," its training program does not satisfy the other requirements set forth in ICO.

The instant record also fails to establish that the training program instructors are qualified to "to teach in common schools or high schools of this State." Coyne Electrical, *supra* at 391. Rather, said record establishes, at most, that such instructors must satisfy only one minimum qualification, that being ten years experience as a journeyman wireman.

Some instructors have exceeded this minimum qualification by obtaining advanced degrees and/or vocational teaching certificates. Nevertheless, the record fails to establish that applicant *requires* its instructors to obtain such degrees, certificates or other credentials which would enable the instructors to teach in public schools. As such, I must conclude that obtaining such credentials is discretionary with the individual instructor. Therefore, the issue of whether such instructors are in fact qualified to teach in State-certified schools remains unproven.

It also bears noting that applicant's exemption from federal income tax does not alter any of the preceding analysis. While this exemption provides evidence that applicant is organized for exempt purposes, it does not establish that the subject premises satisfied the statutorily-imposed use requirement during the entire 1993 assessment year. Moreover, even though this exemption establishes that the Trust is an exempt organization for purposes of the relevant Sections of the Internal Revenue Code, these Sections neither preempt Section 205/19.1 nor

establish that this applicant satisfies any of the above-stated common-law requirements for property tax exemption as a "school[.]" Therefore, applicant's exemption from federal income tax is not dispositive of the present matter. People ex rel County Collector v. Hopedale Medical Foundation, 46 Ill.2d 450 (1970).

In summary, the applicant's training program does not qualify for exemption mostly because it provides training to a select group of prospective Union members rather than the public at large. As such, its primary beneficiaries are the Union and the Association which, pursuant to the collective bargaining agreement, act in concert (via the Committee) to develop training standards for apprentices working in the electrical construction trade throughout Cook County.

This training does not qualify one to sit for any State or federally mandated licensure examination. Rather, it only results in promotion to journeyman status in a trade wherein the Association, by private commercial agreement and not State mandate, must obtain *all* of its employees from the Union. Consequently, I must conclude that applicant's training program does not satisfy the "public benefit" aspect of tax exemption which our courts have long recognized as being central to this particular body of law. See, Yale Club of Chicago v. Department of Revenue, 214 Ill. App.3d 468, 474 (1st Dist. 1991). Therefore, the Department's determination that the premises used to conduct such training, (at least after "April or May of 1993"), does not qualify for exemption from real estate taxes under Section 205/19.1 should be affirmed.

WHEREFORE, for all the above-stated reasons, it is my recommendation that Cook County Parcel Index Number 24-20-300-023 not be exempt from 1993 real estate taxes.

Date

Alan I. Marcus
Administrative Law Judge